IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1556 OF 2005

1. People's Education Society,Mumbai & anr

.. Petitioners

vs

Abhaji S.Mohite Mumbai-31 ... Respondent

Mr P.K.Rele i.b Mr Piyush Shah for Petitioners
Mr S.D.Thokade for Respondent no.1

..

CORAM: D.G.KARNIK, J

DATE: 29th June, 2005

P.C.

1. Heard learned counsel for the petitioners. The respondent no. 1 was employed by the petitioners to work in the hostel of one of their colleges.The respondent no. 1 filed a complaint under the Maharashtra Recognition of Trade Union and Unfair Labour Practices Act (for short the Act) alleging that despite being in work for more than 240 days

in a year and having worked continuously for a period of 8 years he was not being confirmed and not paid wages as a confirmed employee. The defence of the petitioners was that there was a appointment committee which had to make the appointment. The respondent no. 1 was not appointed by the appointment committee but was appointed by the Rector of the hostel who was his close relative. Even if it is presumed that the appointment was made by the Rector who happened to be a relative the management cannot be said to be unware of the appointment of the respondent no. 1 as the management was paying his salary for a period of 8 years. An employee is not expected to know as to who is the authority to make the appointments and assume that all the internal things for making an appointment were complied with. The Rule of Indoor Management espoused in the famous case of Royal British Bank vs Turquand would apply to the facts of the present case. The respondent no.1 having worked continuously for a period of 8 years was entitled to permanency of employment. The Industrial court has held that the respondent no. 1 was entitled to a permanency. I see no reason to interfere in the said decision in

exercise of writ jurisdiction in the said finding.

2. Learned counsel for the petitioner relies upon the judgment of the Supreme Court in Mahatma Phule Agricultural University vs Nasik Zilla Sheth Kamgar Union reported in 2001 (90) FLR 761. The case is distinguishable on facts. Therein the respondent no. 1 was appointed on a post for which government grant was available. In the present case, the respondent no. 1 was employed in the hostal and there is no evidence that the post of the hamal in the students' hostel to which the petitioner was appointed, is a post covered by government grant. In the circumstances, the case is distinguishable on facts. Petition rejected.

D.G.KARNIK, J